United Nations A/67/260

General Assembly

Distr.: General
7 August 2012

Original: English

Sixty-seventh session
Item 70 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Human rights in the administration of justice

Report by the Secretary-General

Summary

The present report is submitted pursuant to a request made by the General Assembly to the Secretary-General in its resolution 65/213 to submit a report on the latest developments, challenges and good practices in human rights in the administration of justice, as well as the activities undertaken by the United Nations system as a whole. The report contains information relating to developments in international law and the work of human rights treaty bodies and special procedures, and examples of developments and activities in the United Nations system relating to human rights and the administration of justice. The report also includes information concerning developments, challenges and good practices at the State level.

* A/67/150.

12-45420 (E) 060912

Please recycle

Contents

		Page
I.	Introduction	3
II.	Recent developments	3
	A. Developments in international law	3
	B. Developments in the work of the human rights treaty bodies	4
	C. Developments in the work of the special procedures of the Human Rights Council	5
	D. Developments in the United Nations system	6
III.	Activities in the United Nations system	7
IV.	Developments and activities at the national level	11
V.	Conclusions	18

I. Introduction

1. In its resolution 65/213, the General Assembly requested the Secretary-General to submit to the General Assembly at its sixty-seventh session a report on the latest developments, challenges and good practices in human rights in the administration of justice, as well as the activities undertaken by the United Nations system as a whole.

2. Juvenile justice was extensively addressed in two recent reports submitted to the Human Rights Council in 2012.[1] Therefore, the present report addresses it only to a limited extent. Issues relating to the death penalty[2] and transitional justice[3] are closely related to human rights and the administration of justice but are not addressed in this report, as they are covered in specialized reports on those topics to the Human Rights Council, the General Assembly or the Security Council.

II. Recent developments[4]

3. The most recent substantive reports of the Secretary-General (A/HRC/14/34) and the United Nations High Commissioner for Human Rights (A/HRC/14/35) on human rights in the administration of justice, including juvenile justice, were presented to the Human Rights Council at its fourteenth session, in 2010. Recent developments cover the period since the issuance of those reports.

A. Developments in international law

4. On 23 December 2010, the International Convention for the Protection of All Persons from Enforced Disappearance entered into force after its twentieth ratification.[5] The Convention had 33 States parties as at 12 July 2012. It requires States parties to ensure that enforced disappearance constitutes an offence under national criminal law, and to take necessary measures to hold accountable those responsible for the crime, including superiors.

5. The General Assembly adopted the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders on 21 December 2010. The Rules cover such issues as the implementation of gender-sensitive prisoner classification and security risk assessments, the provision of gender-specific health-care services, guidance on the treatment of children living with their mothers in prison, the specific safety concerns of women prisoners, and the development of pre- and post-release programmes that take into account the stigmatization and discrimination that women face once released from prison.

6. The Commission on Crime Prevention and Criminal Justice, at its twenty-first session, in April 2012, endorsed a draft resolution setting out new United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (see E/2012/30, chap. I.A). Their objective is to provide guidance to States on the

[1] A/HRC/21/26 and A/HRC/21/25.

[2] See A/67/226.

[3] See A/HRC/18/23 and S/2011/634.

[4] For a summary of the norms and standards relevant to the administration of justice, see A/HRC/14/34, paras. 3, 5 and 6.

[5] See article 39 (1) of the Convention.

fundamental principles on which access to legal aid in a criminal justice system should be based as well as to outline the specific elements required for an effective and sustainable national legal aid system, in order to strengthen access to legal aid. Notably, the Principles and Guidelines indicate that legal aid should be made available to all persons who risk any term of imprisonment; they extend the right of legal aid to suspects and include special provisions regarding victims, witnesses and children, and indicate that the implementation of legal aid rights should be carried out through the incorporation of a gender perspective.

7. The Commission also endorsed a draft resolution taking note of work to revise the existing Standard Minimum Rules for the Treatment of Prisoners by two expert groups convened by the United Nations Office on Drugs and Crime to determine what changes to the Standard Minimum Rules would be desirable. On the basis of recommendations made by the expert groups, the draft resolution indicated the following preliminary areas for possible change: respect for prisoners' inherent dignity and value as human beings; medical and health services; disciplinary action and punishment, including the role of medical staff, solitary confinement and reduction of diet; the investigation of all deaths in custody, as well as any signs or allegations of torture or inhuman or degrading treatment or punishment of prisoners; the protection and special needs of vulnerable groups deprived of their liberty; the right of access to legal representation; complaints and independent inspection; the replacement of outdated terminology; and the training of relevant staff to implement the Standard Minimum Rules.

B. Developments in the work of human rights treaty bodies

8. In December 2010, the Committee on the Elimination of Discrimination against Women adopted general recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/GC/28). In its general comment, the Committee makes observations relevant to the administration of justice. In particular, it indicates that States parties must ensure that women can invoke the principle of equality in support of complaints of acts of discrimination contrary to the Convention, and that States parties must ensure that women have recourse to affordable, accessible and timely remedies, with legal aid and assistance as necessary. The general comment states that where discrimination against women also constitutes an abuse of other human rights, such as the right to life and physical integrity in, for example, cases of domestic and other forms of violence, States parties are obliged to initiate criminal proceedings, bring perpetrators to trial and impose appropriate penal sanctions. The Committee also indicates that a State party should undertake specific education and training programmes regarding the principles and provisions of the Convention directed at all Government agencies, public officials and, in particular, members of the legal profession and the judiciary.

9. In April 2011, the Committee on the Rights of the Child adopted its general comment No. 13 on the right of the child to freedom from all forms of violence (CRC/C/GC/13). Mental violence against children can include, inter alia, placement in solitary confinement, isolation or humiliating or degrading conditions of detention. Physical violence includes, inter alia, all corporal punishment and all other forms of torture and cruel, inhuman or degrading treatment or punishment. The general comment addresses issues relating to how the investigation of reported

instances of violence should be conducted by qualified professionals who have received role-specific and comprehensive training, and indicates that such investigations require a child-rights-based and child-sensitive approach. It also addresses the issue of judicial involvement in cases involving allegations of sexual violence. The general comment indicates that due process must be respected at all times, and that the protection and further development of the child and his or her best interests (and the best interests of other children where there is a risk of a perpetrator reoffending) must be the primary purpose of decision-making, with due regard given to the least intrusive intervention.

10. General comment No. 13 also states that judicial involvement may consist of, inter alia, differentiated and mediated responses such as family group conferencing, alternative dispute resolution mechanisms, and restorative justice, as well as juvenile or family court intervention. It underlines the importance of the strict application of criminal law procedures in order to abolish the widespread practice of de jure or de facto impunity, in particular of State actors. The general comment also highlights the importance of judicial orders to ensure compensation and rehabilitation for children who have suffered from violence in its various forms.

11. In its views on individual communications under the first Optional Protocol to the Convention, the Human Rights Council has continued to address issues relating to the administration of justice, in particular: failure to investigate and take appropriate remedial action in case of the enforced disappearance of a person;[6] a conviction that was not reviewed by a higher court;[7] a domestic court's refusal to enforce the payment of damages;[8] the application of the death penalty following a trial held in violation of fair-trial guarantees;[9] torture, ill-treatment[10] and the arbitrary deprivation of a victim's life[11] during detention; and the forced confession of a juvenile who was not detained separately from adults and was denied the special guarantees prescribed for the criminal investigation of juveniles.[12]

C. Developments in the work of the special procedures of the Human Rights Council

12. In 2012, the Special Rapporteur on the independence of judges and lawyers carried out a global thematic study to assess the human rights education and continuing training of judges, prosecutors, public defenders and lawyers, with recommendations for appropriate follow-up (see A/HRC/20/20). Moreover, in her reports to the Human Rights Council on the activities that she had carried out in 2010 and 2011, the Special Rapporteur focused on some aspects of the multifaceted relationship between gender and the judiciary in the broader context of the administration of justice (see A/HRC/17/30 and Corr.1 and Add.1-3) and analysed the role and responsibilities of prosecutors, as well as their independence, impartiality and accountability (see A/HRC/20/19 and Add. 1-3).

[6] See Communication No. 1820/2008, *Krasovskaya v. Belarus* (views adopted on 26 March 2012).
[7] See Communication No. 1641/2007, *Calderón v. Colombia* (views adopted on 23 March 2012).
[8] Communication No. 1611/2007, *Bonilla Lerma v. Colombia* (views adopted on 27 July 2011).
[9] Communication No. 1304/2004, *Khoroshenko v. Russian Federation* (views adopted on 29 March 2011).
[10] Communication No. 1535/2006, *Litvin v. Ukraine* (views adopted on 19 July 2011).
[11] Communication No. 1756/2008, *Zhumbaeva v. Kyrgyzstan* (views adopted on 19 July 2011).
[12] Communication No. 1390/2005, *Koreba v. Belarus* (views adopted on 25 October 2010).

13. The Special Rapporteur on trafficking in persons, especially women and children, submitted to the Human Rights Council at its seventeenth session a report on an expert consultation held on the right to an effective remedy for trafficked persons in Bratislava (A/HRC/17/35 and Add.1-6). Moreover, the Special Rapporteur submitted to the Council at its twentieth session a report entitled "Expert meeting held on the prosecution of trafficking in persons cases: integrating a human rights-based approach in the administration of criminal justice" (A/HRC/20/18/Add.3).

14. In 2011, the Working Group on Enforced or Involuntary Disappearances prepared a report entitled "Best practices on enforced disappearances in domestic criminal legislation" (A/HRC/16/48/Add.3 and Corr.1), which was submitted to the Human Rights Council at its sixteenth session. The mandate of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence was established by the Council at its eighteenth session. The Rapporteur's tasks include gathering relevant information on national situations relating to the promotion of truth, justice, reparation and guarantees of non-recurrence in addressing gross violations of human rights and serious violations of international humanitarian law, and making recommendations in that regard.

15. The 2010 report of the Working Group on Arbitrary Detention (A/HRC/13/30 and Add.1-3) addressed, inter alia, the thematic issues of the detention of immigrants in an irregular situation, military tribunals and administrative detention and habeas corpus. The report of the Working Group that was presented at the sixteenth session of the Human Rights Council (A/HRC/16/47 and Corr.1 and Add.1-3), in 2011, touched upon the issue of secret detention. On the occasion of its twentieth anniversary, in 2011, the Working Group launched a database to facilitate access for victims, States and civil society to its opinions and other materials. In its 2012 annual report to the Council (A/HRC/19/57 and Add.1-4), it, inter alia, analysed the topics of pretrial detention and habeas corpus. In addition, at its twentieth session, the Council, in its resolution 20/16, requested the Working Group to prepare draft basic principles and guidelines on remedies and procedures relating to the right of anyone deprived of his or her liberty.

D. Developments in the United Nations system

16. Coordinated initiatives across the United Nations system relevant to the administration of justice include the Rule of Law Coordination and Resource Group, the United Nations Task Force on Transnational Organized Crime and Drug Trafficking, United Nations Action against Sexual Violence in Conflict, a task force on women's access to justice and the Interagency Panel on Juvenile Justice.[13] For instance, at a high-level briefing given on 7 February 2012 by senior officials of United Nations bodies participating in the Task Force on Transnational Organized Crime and Drug Trafficking, the need to respect and promote human rights in combating transnational organized crime and drug trafficking was underlined and Member States expressed strong support for the "One United Nations" approach taken by the Task Force members.

[13] The Office of the United Nations High Commissioner for Human Rights actively contributes to all of these inter-agency initiatives.

17. In his report entitled "Delivering justice: programme of action to strengthen the rule of law at the national and international levels" (A/66/749), the Secretary-General proposed that Member States take the opportunity provided by the high-level meeting of the General Assembly to be held in New York on 24 September 2012[14] to make pledges on the rule of law based on national priorities.[15]

III. Activities in the United Nations system

18. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to carry out a large number of activities to promote and protect human rights in the administration of justice. Notably, the Office plays an important role in providing advice on draft laws to ensure that human rights concerns are fully taken into account, including during constitutional reform processes and in the adoption of new legislation such as criminal codes and codes of criminal procedure. For example, as a member of the criminal justice working group in Afghanistan, OHCHR, together with the United Nations Assistance Mission in Afghanistan, contributed to the compliance of national legislation with international human rights standards by providing comments on the draft criminal procedure code and by participating in task force meetings for the drafting of the national priority programme on law and justice. OHCHR also provided advice in several countries on new legislation on the rights of prisoners and detainees and the prohibition of torture. In Uganda, for example, the Office provided a legal analysis of legislation on the prohibition and prevention of torture.[16] In June 2012, an expert meeting was held in Panama on the development of a protocol for the investigation of gender-motivated killings in Latin America, so as to contribute to the fight against impunity for violent crimes against women.

19. Moreover, strengthening human rights compliance on the part of judicial and law enforcement institutions has been a primary focus of activity for OHCHR. In 2011, the Office organized and facilitated human rights training sessions in its field presences around the world for the judiciary, police and other security forces, including military forces, in order to help improve their compliance with international human rights standards. For instance, the OHCHR South America Regional Office, together with the International Labour Organization, organized and conducted a two-month-long course in Peru that was focused on the direct applicability or the interpretive value of international human rights treaties in domestic courts. The Office trained 250 police, gendarmes, customs officers and soldiers in the regions of Guinea under the authority of the security forces on human rights and law enforcement. In Togo, the justice and security ministries and OHCHR conducted a training programme on human rights norms in the administration of justice for magistrates and criminal investigative police officers.[17]

---

[14] The meeting is being organized pursuant to General Assembly resolution 65/32.

[15] See A/66/749, para. 69.

[16] Advice on constitution-making and draft laws was also provided in, inter alia, Burundi, Cambodia, Colombia, Guatemala, Honduras, Iraq, Kenya, Liberia, Mauritania, Mexico, Somalia, South Sudan and Tunisia.

[17] Similar activities were also carried out in, inter alia, Afghanistan, Burundi, Haiti, Kiribati, Papua New Guinea, Solomon Islands, South Sudan, Sri Lanka and Uganda.

20. OHCHR has been engaged in a number of activities to improve the administration of justice through expert meetings, training workshops, publications and technical assistance on specialized thematic topics. For example, it organized an expert meeting on legal aid that was held in Brazil in December 2011. Representatives of public defenders' offices from Argentina, Brazil, Colombia, Mexico and Peru discussed the legal aid schemes in those countries and challenges encountered in the delivery of legal assistance. In addition, OHCHR has continued to support the authorities in Burundi, Kenya, Kosovo, Nepal and Uganda in strengthening their capacity for victim and witness protection through relevant legislation and dedicated programmes. In December 2010, an expert meeting on human rights and customary justice in Africa was held in Pretoria. In 2012, OHCHR issued a publication, entitled "A facilitator's guide on human rights for judges, prosecutors and lawyers", that had been developed in cooperation with the International Bar Association.

21. Furthermore, throughout the reporting period, OHCHR continued its efforts to ensure increased access to justice for individuals and groups facing discrimination, in particular women, minorities and indigenous peoples and people of African descent. For example, in Kyrgyzstan, five human rights non-governmental organizations received technical and financial support from the OHCHR Central Asia Regional Office to provide free legal aid for the population affected during and in the aftermath of the June 2010 violence in the southern part of the country.

22. OHCHR continues to support Member States in their efforts to ensure that respect for human rights and the rule of law lies at the heart of effective counter-terrorism strategies, in line with their commitments set out in the United Nations Global Counter-Terrorism Strategy. For example, in her report to the Council on the protection of human rights and fundamental freedoms while countering terrorism (A/HRC/16/50), the High Commissioner for Human Rights expressed her concern at the erosion of respect for due process, including the right to fair trial, in the context of counter-terrorism policies and practices, and provided recommendations to States in that regard. In addition, as Chair of the human rights working group of the Counter-Terrorism Implementation Task Force, OHCHR has developed a project to assist Member States in ensuring that their law enforcement policies and activities are consistent with international human rights law. The Office continues to develop tools to provide Member States with clear and practical guidance on human-rights-compliant counter-terrorism measures. OHCHR, in collaboration with the Task Force, is developing, through a series of regional expert symposiums, a set of good practice guidelines on the right to fair trial and due process in the context of counter-terrorism efforts. In 2011 and 2012, such symposiums were held in the South-East Asia, Middle East and North Africa and European regions. As Chair of the human rights working group, OHCHR has published basic reference guides on "stopping and searching" and "security infrastructure". Additional tools, on detention, the principle of legality and the proscription of organizations, are under development.[18]

23. The United Nations Children's Fund (UNICEF) is working with Government partners in more than 100 countries to improve justice for children, with a particular focus on legislative reform, capacity-building, advocacy, coordination and partnership, for children in conflict with the law and for child victims and witnesses.

[18] See A/HRC/16/50.

Efforts to develop and raise awareness of national law and procedures are a priority for many offices, and advocacy and technical assistance regarding law reform take international human rights standards into account. With UNICEF support, an estimated 33 countries carried out comprehensive mapping and assessment exercises in 2010-2011.

24. UNICEF has provided support to countries in various regions that have undertaken or are currently undertaking legislative reform to ensure alignment with the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, including Brazil, Colombia and Rwanda. Seventy countries have in place legal or policy frameworks for preventing or responding to child abuse in line with international human rights standards, and 77 have laws and secondary legislation on free and universal birth registration. A significant number of countries (including Bangladesh, Cambodia and Jordan) have developed laws on juvenile procedures. UNICEF offices in some 130 countries (including Albania, Costa Rica, Croatia, Madagascar and Turkey) report that Governments are taking steps to implement the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime.

25. The prevention of violence is part of the UNICEF child protection systems approach, one objective of which is to reduce the estimated number of 1 million children in detention. These efforts include advocating and upholding legislation on the minimum age of criminal responsibility, and proactive measures to prevent children from coming into conflict with the law. The Fund's Belarus and Tunisia country offices, for example, carried out research into the causes of delinquency.

26. The UNICEF child protection strategy is aimed at reducing the number of children in detention. In this regard, outputs in 2011 include the development of an online toolkit on diversion and alternatives to detention. In Lebanon, 207 children in conflict with the law benefited from the implementation of community sentencing as a measure alternative to detention. In Jordan, similar progress was made in protecting children in conflict with the law by providing them with access to restorative justice approaches through a pilot community-based diversion project being undertaken in two communities. A special juvenile police force was established to address cases involving children in conflict with the law. In Thailand, a strengthened juvenile justice system was developed to promote prevention, diversion, restorative justice and reintegration with respect to children in contact with the law, including reintegration support services for juvenile offenders and a restorative justice centre. In Bangladesh, UNICEF supported the launching of a pilot diversion initiative in one district, establishing a mechanism for coordination among the police, the judiciary, probation officers, lawyers and local elected bodies to prevent the unnecessary institutionalization of children and therefore to steer children in conflict with the law away from judicial proceedings.

27. The capacities of law enforcement and the justice sector were improved in a number of countries as a result of UNICEF work. For example, in Honduras, more than 350 staff were trained in the prevention, investigation and protection of the rights of child victims of abuse, sexual exploitation and trafficking. In Uruguay, UNICEF supported the public prosecutor's office in implementing a course on sexual abuse. In addition, more countries are investing in comprehensive support services for children who have experienced sexual violence, including health, legal, protective and counselling services. For example, in Zimbabwe, UNICEF

contributed to a review of the protocol on the multisectoral management of child sexual abuse. In Argentina, intersectoral coordination to address cases of child sexual abuse has improved through the development of integrated protocols for care. In Chile, a clinical guide to the care of child victims of sexual abuse younger than 15 has been developed by the Ministry of Health, together with related training for professionals.

28. In 2012, following consultations with OHCHR, UNODC issued a paper entitled "UNODC and the promotion and protection of human rights". The paper recognizes that human rights issues are particularly important in relation to law enforcement, prosecution, the courts, sentencing and prisons. It also addresses human rights aspects of criminal justice reform, the use of the death penalty, compulsory drug treatment centres and security and judicial responses to terrorism. The paper is aimed at ensuring that a human rights dimension is taken into account and is an integral part of the UNODC approach to technical assistance.

29. UNODC has also recently issued a number of other publications relevant to the administration of justice. These include *Handbook on Improving Access to Legal Aid in Africa*, *Child Friendly Legal Aid in Africa*,[19] *Criminal Justice Reform in Post-Conflict States: A Guide for Practitioners*, *Handbook on Police Accountability, Oversight and Integrity* and *Criteria for the Design and Evaluation of Juvenile Justice Reform Programmes*.

30. The United Nations Development Programme (UNDP) promotes effective, responsive, accessible and fair justice systems as a pillar of democratic governance, particularly by focusing on the poor and marginalized, who often do not have the opportunity to seek remedies in the justice system. UNDP works with national partners to develop national strategic plans and programmes for justice reform and service delivery; support justice needs and capacity assessments to analyse demand and supply for services; empower the poor and marginalized to seek responses and remedies for injustice; improve legal protection, legal awareness, legal aid, adjudication and enforcement; promote civil society and parliamentary oversight; respond to immediate justice needs, including the protection of women's rights and access to legal services; address serious challenges in the justice sector, such as police brutality, inhumane prison conditions, lengthy pretrial detention and impunity for perpetrators of sexual and gender-based violence; and strengthen linkages between formal and informal structures.

31. Somalia is an interesting example of UNDP implementation in practice. There, the national authorities, with the support of the Programme, have made significant progress in strengthening the justice system and improving access to justice across the country despite a volatile and inaccessible environment in many areas. Improvements in access to justice have been achieved through a range of measures, including the establishment of legal aid clinics and mobile courts in all regions of the country, the training of nearly 5,000 police officers and support for innovative reforms such as improved case management systems. Legal aid services are now available throughout Somalia, and increasing numbers of the population are utilizing them. Particular progress has also been made in providing women with increased access to justice.

[19] Produced together with UNICEF and the United Nations Development Programme.

32. The Department of Peacekeeping Operations works to strengthen the police, justice systems and corrections institutions as part of its efforts to successfully implement its peacekeeping mandate. The Department aims to address these three institutions simultaneously, deploying police, judicial and corrections officers in its peace missions. In the Democratic Republic of the Congo, Haiti, Liberia and Timor-Leste, for example, the Department has worked with the national authorities to rebuild or construct new police stations, courthouses and prisons and to work with the host Government to help develop the local capacity and human resources needed to ensure that those institutions function in accordance with international human rights standards. The Department also works with national partners and international donors to rehabilitate training centres, universities and the police in order to ensure that they are able to train the required personnel.

33. United Nations Rule of Law Indicators, a joint project of OHCHR and the Department of Peacekeeping Operations, was launched in 2011 in three pilot countries: Haiti, Liberia and South Sudan. Through the project, national authorities are provided with the information and guidance necessary to assess and identify areas in need of reform, including the performance, integrity, transparency and accountability of national criminal justice institutions, and to ensure compliance with international standards regarding fair trial and the treatment of members of vulnerable groups.

34. In 2011, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) issued a report entitled *Progress of the World's Women: In Pursuit of Justice*. The report notes that although there have been major achievements in strengthening the position of women over the past century, many challenges remain in effectively ensuring equality and justice for women. The first of the 10 recommendations made in the report is that support be provided for women's legal organizations, which often step into the gaps left by inadequate legal aid systems. Other recommendations include further legal reform to ensure paid maternity leave, equal pay and equal property rights, support for the development of consolidated services to deal with serious crimes such as rape, increased recruitment of women into police forces, better training for judges to challenge the notion that women's behaviour may contribute to rape, and the use of quotas to increase the number of female legislators. Given how sexual violence is used in conflicts, the report also advocates greater effort to increase women's access to the courts and truth commissions during and after conflicts.

35. In April 2012, UN-Women, in cooperation with OHCHR and the International Centre for Transitional Justice, jointly organized an expert group meeting in Addis Ababa with the Working Group on Enforced or Involuntary Disappearances, in support of a draft general comment on gender and enforced disappearances.

IV. Developments and activities at the national level

36. A note verbale dated 8 May 2012 was sent to States, intergovernmental organizations and non-governmental organizations requesting contributions to the present report. The developments detailed below are based on a summary of the reports provided by States in response.

37. Bosnia and Herzegovina reported on the development of laws and procedures specifically applicable to juvenile offenders; in particular, a number of procedural

rights were highlighted, such as the right to counsel. The best interests of the child were enshrined as a fundamental principle in family and criminal legislation. The minimum age of criminal responsibility had been set at 14. Juveniles between the ages of 14 and 16 were subject only to correctional measures. Juveniles between 16 and 18 years of age could be imprisoned in exceptional circumstances. Alternative measures could be applied to juvenile offenders, such as judicial admonition; intensified supervision; and committal to a disciplinary centre for juveniles, an educational institution, an educational-reformatory home or another type of rehabilitation institution.

38. Bulgaria referred to training programmes aimed at strengthening the capacity of public prosecutors dealing with children in conflict with the law and child victims of crimes. In addition, a specialized department for combating crimes committed by juveniles and crimes against minors had been established in the Supreme Cassation Public Prosecutor's Office in February 2012. Legislation had been adopted to amend the judiciary law, establishing an effective remedy for violations of the right to a fair trial as enshrined in article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Finally, the General Directorate for the Execution of penalties of the Ministry of Justice had, inter alia, provided training for prison personnel and adopted a programme to improve prison conditions.

39. Cuba reported that legal aid as well as religious assistance was available to persons deprived of their liberty and that such persons had the opportunity to make direct complaints to and petition the authorities. Moreover, a variety of measures had been developed to guide and rehabilitate juveniles deprived of their liberty. Juvenile prisoners received special and individualized treatment. They were held in distinct detention centres, separate from adults. In 2001, a community centre had been established in San Francisco de Paula that provided juveniles with opportunities to work, study and participate in sports and cultural activities; active family participation in the learning process was also envisaged. Owing to its success, other such centres had been established.

40. The educational system for adult prisoners had also been expanded, including the opportunity to participate in university education. Voluntary work for prisoners was promoted, which enabled them to receive not only a salary but also a pension. The human rights training of medical personnel, police, prison personnel and other personnel working in the judiciary was considered a priority. Special attention was also paid to children in the administration of justice. The best interests of the child remained a primary consideration in all judicial matters concerning children.

41. Georgia indicated that as part of its overall efforts to reinforce the rule of law and develop a secure community environment, criminal justice reform was an important initiative. Detailed information was provided on the country's juvenile justice reform. In 2009, a comprehensive and wide-ranging juvenile justice strategy and action plan had been developed. It was aimed at reducing the use of custodial pretrial measures and the sentencing of children.

42. A juvenile crime prevention strategy had been adopted in 2011, and a juvenile crime prevention action plan was being formulated. Various projects had also been developed, including a safe-school programme. The criminal procedure code had been amended to allow for discretionary prosecution. This in turn had made it possible to develop a juvenile diversion and mediation programme, which had been launched in 2010. A programme aimed at ensuring that convicted juveniles had

access to adequate education in prison was being implemented. Georgia had carried out a variety of reforms of its probation and penal systems in order to establish planning mechanisms for individual sentencing. A number of training programmes had been conducted for police, prosecutors, judges, prison personnel and officers of the national probation agency. In addition, a legal aid service had been established.

43. Germany referred to new legislation concerning unreasonably long court proceedings or criminal investigations, which had entered into force on 3 December 2011. The Act on remedies against lengthy court procedures provided for appropriate compensation in that regard if those affected showed that they had notified the Court of the undue length of the procedures in question before claiming compensation.

44. Guatemala reported that its Supreme Court had established a strategic five-year plan for 2011-2015 that included the following main programmatic pillars: the strengthening of institutions; the improvement of services and the development of human resources; ensuring an efficient administration; and enhancing the endorsement of and confidence in the judiciary among the population. In order to facilitate access to justice, the judiciary had created a variety of new judicial entities. These included mobile units and judicial bodies addressing femicide and other forms of violence against women, as well as tribunals dealing with drug-related activities or environmental crimes. The office of the public prosecutor had issued regulations on the organization and functioning of the human-rights-related prosecution service. Moreover, a special investigations unit established to deal with cases subject to the special investigation procedure, as envisaged in the Criminal Procedure Code, had been established at the initiative of the Human Rights Representative.

45. With regard to rights over property obtained as a result of illicit or criminal activities, the Congress of the Republic of Guatemala had adopted a law on the seizure of assets that had entered into force in 2011, and a court of first instance was to be established to address the issue. In addition, decree No. 3-2012 of January 2012 supported the country's accession to the Rome Statute of the International Criminal Court.

46. Guatemala referred to a number of achievements related to the strengthening of the National Institute of Forensic Sciences. For example, a system for case management had been implemented. The country reported on the results of the work of the International Commission against Impunity in Guatemala. Information was also provided on the "pact for security, justice and peace", a proposed document in which the executive, legislative and judicial branches, together with civil society sectors, expressed their commitment to the development of a cooperative strategy to improve governance, security and protection with regard to crime, violence and impunity.

47. Iraq reported on various fundamental rights relating to the administration of justice that had been laid down in the Iraqi Constitution of 2005. In general, it was emphasized that all Iraqis were equal before the law, without discrimination. Article 19 of the Iraqi Constitution was of particular relevance, as it guaranteed the independence of the judiciary and provided fundamental fair-trial guarantees, such as the presumption of innocence. Moreover, Iraq indicated that article 7 of the Universal Declaration of Human Rights and article 10 of the International Covenant on Civil and Political Rights were incorporated into national law.

48. Japan referred to a number of reforms to its criminal justice system, including the introduction of a lay juridical system, a victim participation system, a new system under which State-appointed attorneys were available to suspects in custody, new pretrial arrangement proceedings that expanded the range of evidence disclosed by the public prosecutor, and a new system whereby court-appointed lawyers could, under certain conditions, take over the prosecution of cases dropped by the public prosecutor.

49. Japan reported that the human rights of suspects and accused were adequately protected in terrorism cases and that the management of pretrial detention was appropriately ensured. The specific needs of women prisoners and the impact of the imprisonment of parents on their children were taken into account in the determination of sentencing or pretrial detention. In addition, Japan provided training on human rights issues to a range of persons involved in the administration of justice.

50. Special measures were applied to criminal cases involving juveniles. The Juvenile Act provided for, inter alia, relaxed conditions for parole and the prohibition of the publication of the names and ages of juvenile offenders. When correctional treatment was carried out, due consideration was paid to education and vocational training. Juveniles were assigned special personnel who were responsible for continuous guidance such as individual counselling. A juvenile could not be detained except in exceptional circumstances and for no longer than eight weeks. Detention could be replaced by monitoring and protection measures.

51. Malta provided a review of acts of Parliament adopted between 2008 and 2011 that were aimed at strengthening the effectiveness and fairness of trials. In 2008 and 2009, the Code of Organization and Civil Procedure and the Civil Code had been amended to improve the efficiency of proceedings. Amendments to the Criminal Code addressed, inter alia, discrimination, racial hatred and xenophobia. An amendment made in 2009 to the Equality for Men and Women Act clarified concepts relating to discrimination on the basis of sex.

52. In 2010, Malta had ratified the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children. Amendments to the Arbitration Act ensured that the right to recourse against an arbitral award and the right to appeal were enshrined in national law. Modifications to the Mediation Act ensured the effectiveness, impartiality and competence of the mediator and allowed parties to initiate further judicial proceedings or arbitration. Moreover, amendments to the Criminal Code covered the rights to life, humane treatment and protection from forced labour. The law amending the Probation Act provided grounds for refusing the recognition and supervision of community sanctions based on human rights considerations.

53. With regard to 2011, Malta provided information on the law amending the Civil Code and on the Restorative Justice Act. The former highlighted the best interests of any child and the welfare of the parties involved in separation or divorce cases and provided for a right to appeal in such cases; the latter established provisions for the granting of parole to prisoners and set out further restorative justice measures, including the establishment of an offender assessment board and a parole board.

54. Mauritius reported that a children's bill was being developed in order to harmonize and consolidate various pieces of legislation covering the rights of children, including those in conflict with the law, and to implement the Convention on the Rights of the Child. Special measures were in place for the children of incarcerated parents. A mediation division had been established within the Supreme Court, and mandatory mediation had been introduced with respect to all commercial and appropriate civil law cases.

55. Furthermore, a Presidential Commission had been mandated to examine and report on the structure and functioning of the judicial and legal profession. Mauritius indicated that out of the Commission's 220 recommendations, which covered many aspects of the judiciary, more than 75 had been implemented. For example, the procedures of district and intermediate courts had been simplified. Further measures were being taken to implement the Commission's recommendations, such as the Law Practitioners (Amendment) Act, which would enter into force in September 2012 and which had the objective of modernizing the legal profession as well as the judicial and legal system.

56. Moreover, the Juvenile Offenders Act was being reviewed in order to, inter alia, provide for mediation between interested parties. The Bail and Legal Aid Acts had been amended, and by constructing new prisons Mauritius was addressing the problem of prisons overcrowding. Information was also provided on comprehensive efforts to provide sensitization and training on human rights to enforcement officers and members of the judiciary. For example, training on various subjects pertaining to human rights had been incorporated into the curriculum for newly recruited police officers. Opportunities to attend conferences, seminars and workshops on human rights were provided for judges and prosecutors.

57. Mexico reported that the constitutional reform of 2011 had brought about a number of improvements in the field of human rights. For example, international human rights treaties had been recognized as having a higher legal status than federal law and other non-constitutional legal provisions; a list of non-derogable rights had been provided; and the National Human Rights Commission had been mandated to investigate gross violations of human rights. The 2008 reform of the penal law system had been aimed at expediting the judicial process and strengthening due process. Significant measures had included the transition from an inquisitorial to an accusatorial system and the incorporation of certain fair-trial guarantees, including the presumption of innocence. In 2012, Mexico had adopted a general victims' law that recognized and protected the rights of victims of crime and human rights violations. In addition, measures had been taken to establish civil jurisdiction for the adjudication of violations of fundamental rights perpetrated by military personnel and to improve conditions of detention centres. Moreover, a range of programmes had been carried out to improve access to justice at the federal level for indigenous people, taking into account their internal normative system.

58. Mexico also referred to a number of capacity-building measures in the field of human rights. Public prosecutors participated in seminars and workshops on anti-discrimination issues. An agreement on collaboration between the Council of the Federal Judiciary and the National Institute for Indigenous Languages had been concluded with a view to teaching indigenous languages to judicial personnel. Moreover, training on a wide variety of human rights topics was offered, including the certification of skills relating to the application of international and regional

human rights standards. The following judicial and administrative bodies had been established: a directorate general on human rights, gender equality and international affairs; a unit for the implementation of penal reforms, constitutional complaints and human rights; and seven courts specializing in matters related to search, seizure and wiretapping.

59. Paraguay reported that a basic legal advisory service was being established. The service sought to facilitate access to justice, including access to alternative conflict resolution mechanisms, by providing free information and legal advice to citizens; in particular, it sought to provide support for vulnerable groups. Preparatory work had been carried out and primary services had been provided in an area of Asunción with a vulnerable population.

60. Paraguay also reported that since 2008, the Ministry of Justice and Labour had tackled structural and substantive reforms to improve the justice system and institutionalize human rights. In this context, a committee on the treatment of children living with incarcerated mothers had been established and mandated to formulate an action plan for the area of the detention centre housing mothers and their children. These efforts had led to a variety of positive results and measures for both children and their mothers, such as the authorization of nurseries, and to the establishment of a training programme for prison personnel.

61. In addition, Paraguay provided detailed information about a number of measures carried out in 2011, including the organization of and participation in workshops, courses and seminars, as well as the preparation of materials on a broad range of topics related to the administration of justice, such as ethics, transparency and integrity in the governmental sector. Government employees were involved in various capacity-building activities. Paraguay also reported on a request by the Supreme Court for information about measures taken by the Government to implement the judgement handed down by the Inter-American Court of Human Rights in the case *Sawhoyamaxa v. Paraguay*.

62. Qatar reported that criminal trials and the imposition of penalties were not its only methods of upholding justice; in many cases, the law permitted reconciliation as a way to end trial proceedings. Moreover, investments in the judiciary had been made: tribunals benefited from the latest technology, and efforts had been made to ensure the training of judges and other staff working in courts and tribunals. As a general rule, pretrial detention was not used except in cases where there was a risk that the flight or release of a suspect might affect a witness or influence the case, and such use was limited to periods prescribed by law. Judges monitored all criminal proceedings. Qatar also reported on various measures taken in the field of juvenile justice. For example, detention was used only as a measure of last resort. Juvenile offenders younger than 18 were held separately from adults and benefited from educational and cultural programmes aimed at their future reintegration.

63. Romania indicated that under its Criminal Procedure Code, legal aid was mandatory for several categories of defendants and under certain conditions in criminal matters. A public legal aid system had been put in place to ensure adequate access to justice for those experiencing financial hardship. Romania had amended its criminal procedure law concerning certain fair-trial guarantees, including the right to a defence, the use of the official language and the right to an interpreter. With regard to the fight against terrorism, it was stressed that the Criminal Procedure Code ensured full respect for human rights and fair-trial guarantees.

Moreover, a number of measures alternative to imprisonment had been adopted to address the problem of prison overcrowding. In that context, parole services had also been improved.

64. Romania referred to special conditions established for women deprived of their liberty, in particular pregnant women and women caring for young children. The children of incarcerated persons were entitled to alternative protection measures. In general, when children were involved, their best interests had to be the primary concern. Juvenile offenders enjoyed special rights and were subject to a special preventive detention regime. When such detention was ordered, the juvenile's age had to be taken into account so as not to jeopardize his or her physical, mental or moral development. In general, juveniles were deprived of their liberty only as a measure of last resort. Special programmes had been developed to ensure the reintegration of juvenile offenders into society or, in the case of non-custodial measures, to prevent them from reoffending and dropping out of society. Furthermore, a variety of measures had been taken to train magistrates in all fields of justice, including human rights. For example, courses had been provided on combating racism and discrimination.

65. Samoa reported that certain institutions had been established or were in the process of being established to expand the range of legal services available to the public. These included the Law Reform Commission, the Community Law Centre, the Human Rights Commission, the Office of the Public Defender and the Disabled People's Rights Unit.

66. Slovakia provided information about its legal aid service for persons in material need. In 2012, the income cap set for those receiving free legal aid had been raised. Slovakia was in the process of subjecting the justice sector to public scrutiny by, inter alia, providing databases on criminal and civil proceedings and maintaining public registers of experts and interpreters, as well as mediation centres.

67. The minimum age of criminal responsibility was 14, and special provisions applied to juveniles between the ages of 14 and 18. In particular, juveniles had to be held separately from adults and received special treatment during confinement. Juveniles could not be sentenced to life imprisonment, with the maximum length of a juvenile's prison term being seven years except in the case of very serious offences. Moreover, special provisions on detention and imprisonment applied to pregnant women or women with newborn children. In general, women must be detained separately from men. Training programmes on human rights in the administration of justice had been conducted for judges and prosecutors, as well as judicial clerks.

68. Ukraine reported on progress in its judicial reform, which had been launched with legislation on the judiciary and the status of judges, adopted on 7 July 2010. The law established a unified system of courts of appeal and a Supreme Specialized Court for Civil and Criminal Cases. As part of the reform process, the military courts had been eliminated because they had failed to meet European and international human rights standards, and a new mechanism for the selection of judges had been launched. The law also shortened the time frame and simplified the procedure for the consideration of appeals.

69. Ukraine reported on decree No. 597 of May 2011, on the concept of the development of criminal justice with regard to juvenile offenders. On 12 October 2011, the Government had adopted a plan of implementation for the decree, which provided for the introduction of changes into criminal procedure legislation and training on juvenile justice for judges, prosecutors, attorneys, police officers and services dealing with children. A new Criminal Procedure Code had been adopted in April 2012 and would enter into force on 19 November. The Code established that detention was an exceptional measure and limited its total duration to six months. In the case of offences committed by juveniles, parents or legal guardians were notified immediately. Cases were handled by a special investigator trained in dealing with young offenders.

V. Conclusions

70. **The developments, challenges and good practices set out in the present report indicate the critical role played by human rights standards and norms in ensuring a fair and transparent system of the administration of justice at the national level. The United Nations and its Member States continued to invest efforts in both the development and the improvement of applicable rules and standards. International human rights treaty bodies and special procedures of the Human Rights Council play an important role in the effective oversight of the implementation of these standards.**

71. **The variety of developments and good practices at the national level illustrates the manifold efforts of States to ensure the implementation of human rights in the administration of justice according to international human rights norms and standards. In many States, particular emphasis is thereby placed on the strengthening of juvenile justice systems. The responses also highlighted the importance of capacity-building and training on human rights issues as an indispensable requirement for the effective administration of justice.**